

Internal Revenue Service, Treasury

§ 403.38

conditioned to pay the amount of the appraised value to the Commissioner or his delegate, the U.S. Marshal, or otherwise, as may be ordered and directed by the court. The bond shall be filed by the Commissioner or his delegate with the U.S. Attorney for the district in which the proceedings may be commenced. If the owner of such property neglects or refuses to give such bond within a reasonable time considering the condition of the property, the Commissioner or his delegate shall request the U.S. Marshal to proceed to sell the property at public sale as soon as practicable and to pay the proceeds of sale, less reasonable costs of the seizure and sale, to the court to abide its final order, decree, or judgment.

(Sec. 7322, 7323, 7324, 68A Stat. 869, 870, as amended; (26 U.S.C. 7322, 7323, 7324))

Subpart D—Remission or Mitigation of Forfeitures

§ 403.35 Laws applicable.

Remission or mitigation of forfeitures shall be governed by the customs laws applicable to remission or mitigation of penalties as contained in 19 U.S.C. 1613 and 19 U.S.C. 1618.

(Sec. 613, 46 Stat. 756, as amended, sec. 618, 46 Stat. 757, as amended, sec. 7327, 68A Stat. 871; (19 U.S.C. 1613, 1618, 26 U.S.C. 7327))

§ 403.36 Interest claimed.

Any person claiming an interest in property seized by an officer of the Internal Revenue Service as subject to administrative forfeiture under this part may file a petition addressed to the District Director of the internal revenue district in which the property was seized for remission or mitigation of the forfeiture of such property.

§ 403.37 Form of the petition.

There is no standardized form provided or required by the Department of the Treasury for use in filing a petition for remission or mitigation of forfeiture. However, the petition should be typewritten on legal size paper; and must be executed under oath, prepared in triplicate, and addressed to the District Director of the internal revenue district in which the property was seized. All copies of original documents

submitted as exhibits in support of allegations of the petition should be certified as true and accurate copies of originals. Each copy of the petition must contain a complete set of exhibits.

§ 403.38 Contents of the petition.

(a) *Description of the property.* The petition should contain such a description of the property and such facts of the seizure as will enable the Commissioner or his delegate to identify the property.

(b) *Statement regarding knowledge of seizure.* In the event the petition is filed for the restoration of the proceeds derived from sale of the property pursuant to an administrative forfeiture, it should contain, or be supported by, satisfactory proof that the petitioner did not know and could not have known of the seizure prior to the declaration of forfeiture. (See also § 403.39)

(c) *Interest of petitioner.* The petition should clearly and concisely indicate the nature and amount of his interest in the property on the date the petition is filed, and the facts relied upon to show that the petitioner was not willfully negligent and did not intend that the property be involved or used in violation of the internal revenue laws. Such petition may allege such other circumstances which in the opinion of the petitioner would justify the remission or mitigation of the forfeiture.

(d) *Petitioner innocent party.* If the petitioner did not commit the act which caused the seizure of his property, the petition should state how the property came into the possession of the person whose act did cause the seizure, and it should also state that the petitioner had no knowledge or reason to believe that the property would be involved or used in violation of the internal revenue laws. If the petitioner knows, at the time he files the petition, that the person in whose possession the seized property was at the time of the seizure had a record or reputation for committing commercial crimes, the petitioner should state in the petition whether the petitioner knew of such record or reputation before the petitioner acquired his interest in the property or before such other person came into possession of the property, whichever